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E-FILED - 3/3/10

Attorneys for Defendants, CITY OF SAN JOSE,
DAVIS, EVANS, EPP, MORASCI, TRAN, UNGER,
DEMARIA, JEFFREY, CRAWLEY, PURNELL and
BARRY

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT, SAN JOSE DIVISION

MARLO CUSTODIO, et al.

Plaintiffs,

v.

THE COUNTY OF SANTA CLARA, et al.

Defendants.

Case Number: C09-00527 RMW

**2nd STIPULATION AND []
ORDER TO CONTINUE EARLY
NEUTRAL EVALUATION
CONFERENCE DEADLINE**

1 Plaintiffs and Defendants in the above-entitled matter, hereby stipulate that the
2 deadline for completion of the Early Neutral Evaluation Conference in this matter be
3 extended from February 2010 to April 30, 2010. As good cause for this proposed
4 extension, the parties submit the following:

5 1) On June 30, 2009 the Court entered a Reassignment Order reassigning this
6 case to the Honorable Ronald M. Whyte;

7 2) On October 2, 2009, during the Initial Case Management Conference, the
8 Court set a hearing on Defendant County of Santa Clara's Motion to Sever for December
9 4, 2009 at 9:00 a.m. and instructed Plaintiffs and Defendant County of Santa Clara to also
10 address the issue of whether a Stay of the Action should be entered;

11 3) The Early Neutral Evaluation Conference in this matter was originally
12 scheduled for October 1, 2009, then continued to October 8, 2009 and November 10,
13 2009;

14 4) On November 16, 2009 the parties filed their first Stipulation and [Proposed]
15 Order to Continue the Early Neutral Evaluation ("ENE") Conference completion deadline
16 which the Court adopted and extended the deadline to an unspecified date in February
17 2010;

18 5) The parties put the ENE process on hold pending the Court's decision on the
19 Santa Clara County's Motion to Sever Claims against the County;

20 6) On December 28, 2009 the Court issued an Order Re: Defendant County of
21 Santa Clara's Motion to Sever Claims and Plaintiff's Ex Parte Application to Stay
22 Proceedings. The Court ordered that Plaintiff's Ex Parte Application be granted in part,
23 and that the trial against the City of San Jose and the San Jose Police Officer Defendants
24 be stayed. In all other respects, the Plaintiffs' Application was denied. The Court also
25 ordered that Defendant Santa Clara County's Motion to Sever be granted.

26 7) On January 14, 2010, the parties held a lengthy conference call with the
27 appointed ENE Evaluator, Amitai Schwartz, in an effort to schedule a mutually convenient
28 date for the ENE Conference in this matter.

1 8) Due to various conflicts, including scheduled trials, the parties were unable to
2 select a mutually convenient date to hold this Conference until April 23, 2010.

3 9) Although the Court ordered the case severed as to Santa Clara County, the
4 matter is stayed as to the City of San Jose Defendants pending the outcome of an appeal
5 filed by two of the Plaintiffs in this matter of their criminal convictions.

6 10) Given the fact that no trial date has been set by the Court, and for the
7 reasons set forth herein above, the parties submit that good cause exists for the extension
8 of the ENE Conference deadline.

9 **SO REQUESTED AND STIPULATED:**

10 Respectfully submitted,

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13 Dated: _____

By: _____
MONIQUE ALONSO, Esq.
Gross Belsky Alonso LLP

14
15 Attorney for Plaintiffs

16 RICHARD DOYLE, City Attorney

17
18 Dated: February 11, 2010

By: _____
/s/ Michael J. Dodson
MICHAEL J. DODSON, Esq.
Office of the San Jose City Attorney

19
20 Attorney for Defendants, CITY OF SAN
21 JOSE and OFFICER DEFENDANTS

22 Dated: _____

By: _____
ARYN PAIGE HARRIS, Esq.
Office of the Santa Clara
County Counsel

23
24 Attorney for Defendant,
25 SANTA CLARA COUNTY

26
27 Dated: _____

By: _____
AMITAI SCHWARTZ, Esq.
ENE Evaluator

1 8) Due to various conflicts, including scheduled trials, the parties were unable
2 to select a mutually convenient date to hold this Conference until April 23, 2010.

3 9) Although the Court ordered the case severed as to Santa Clara County, the
4 matter is stayed as to the City of San Jose Defendants pending the outcome of an appeal
5 filed by two of the Plaintiffs in this matter of their criminal convictions.

6 10) Given the fact that no trial date has been set by the Court, and for the
7 reasons set forth herein above, the parties submit that good cause exists for the extension
8 of the ENE Conference deadline.

9 **SO REQUESTED AND STIPULATED:**

10 Respectfully submitted,

11
12
13 Dated: 1/28/10

By: 

MONIQUE ALONSO, Esq.
Gross Belsky Alonso LLP

Attorney for Plaintiffs

14
15
16 Dated: _____

RICHARD DOYLE, City Attorney

17
18 By: _____

MICHAEL J. DODSON, Esq.
Office of the San Jose City Attorney

Attorney for Defendants, CITY OF SAN
JOSE and OFFICER DEFENDANTS

19
20
21
22 Dated: 1/29/10

By: 

ARYN PAIGE HARRIS, Esq.
Office of the Santa Clara
County Counsel

Attorney for Defendant,
SANTA CLARA COUNTY

23
24
25
26
27 Dated: 1/29/10

By: 

AMITAI SCHWARTZ, Esq.
ENE Evaluator

ORDER

Pursuant to the Stipulation of the parties, the deadline for completion of the ENE Conference in this matter is extended to April 30, 2010.

Dated: 3/3/10



HONORABLE RONALD M. WHYTE
United States District Court Judge